

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:13 CR 27**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
BRIAN DALLEN MANEY.)	
)	
)	

THIS CAUSE came on to be heard and being heard before the undersigned at the close of a Rule 11 proceeding that was held before this Court on October 28, 2013. It appearing to the Court at the call of this matter on for hearing the Defendant was present with his attorney, Fredilyn Sison and the Government was present and represented through Assistant United States Attorney John Pritchard. From the arguments of counsel for the Defendant and the arguments of the Assistant United States Attorney and the records in this cause, the Court makes the following findings:

Findings. On October 1, 2013 a bill of information was issued charging the Defendant with engaging in sexual contact with another person who had attained the age 12 years but not attained the age of 16 years and who was at least four years younger than Defendant, in violation of 18 U.S.C. § 2244(a)(3). On October 28, 2013, the undersigned held an inquiry, pursuant to Rule 11 of the

Federal Rules of Criminal Procedure and accepted a plea of guilty of Defendant to that charge. At the end of the Rule 11 proceeding, this Court presented the issue of whether or not Defendant should now be detained, pursuant to 18 U.S.C. § 3143(a)(2).

Discussion. 18 U.S.C. § 3143(a)(2) provides as follows:

(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless ----

(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; or

(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.

From an examination of the records in this cause, it appears that Defendant has now entered a plea of guilty to an offense described under 18 U.S.C. § 2244(a)(3) which is considered to be a crime of violence as provided by 8 U.S.C. § 3142(f)(1)(A) and 18 U.S.C. § 3146(4)(C).

The undersigned made an inquiry of Assistant United States Attorney John Pritchard as to whether or not there has been or will be a recommendation that no sentence of imprisonment be imposed upon Defendant. Mr. Pritchard advised the

Court that such a recommendation had not been made and would not be made in this matter. As a result of the plea of guilty, the undersigned cannot find there is a substantial likelihood that a motion for acquittal or new trial will be granted or that an attorney for the Government has recommended or will recommend that no sentence of imprisonment be imposed upon the Defendant.

It would thus appear and the Court is of the opinion that the Court is required to apply the factors as set forth under 18 U.S.C. § 3143(a)(2) which require the detention of Defendant.

ORDER

IT IS, THEREFORE, ORDERED, that Defendant be detained pending further proceedings in this matter.

Signed: October 30, 2013

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

